


LDH Fair Labor Standards Act Determinations Policy

	Louisiana Department of Health (LDH)	
	Policy Number	49.1
	Content	Policy and procedures to establish the exempt and non-exempt status of positions within The Louisiana Department of Health
	Effective Date	August 23, 2004
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If there is a discrepancy between an LDH Policy and a Program Office or facility policy, the LDH policy shall govern/override/supersede the conflicting section within the Program Office or facility policy.

I. POLICY STATEMENT

It shall be the policy of The Louisiana Department of Health (LDH) to establish the exempt/non-exempt status of every position within LDH in accordance with the Fair Labor Standards Act (FLSA) and the provisions of this policy. This policy is intended to assure that all employees are designated appropriately for duties actually being performed. All employees shall comply with the provisions of the FLSA which takes precedence over this policy, State Law, and State Civil Service Rules.

II. APPLICABILITY

This policy shall apply to all positions with LDH covered by the FLSA.

III. EFFECTIVE DATE

The effective date of this revised policy is August 23, 2004.

IV. DEFINITIONS

Human Resources Director: The custodian of the official personnel file. It could refer to any Human Resources Director whether in a facility, region, program office, or the central human resources office.

LDH Human Resources Director: The director of the central human resources office for LDH, officially titled the director of the Division of Human Resources, Training and Staff Development (HRTSD) located in Baton Rouge.

Manager: An employee with responsibility for and authority to make decisions relating to exempt/non-exempt status of other employees.

V. POLICY PROVISIONS

- A. Each Assistant Secretary shall decide the best course of action for determining the exemption status of positions under his/her jurisdiction and their periodic review, as follows:
 - 1. General determinations of job classes by human resources staff and/or upper management within his/her Office, taking into consideration job duties, level of responsibilities, pay levels, and other factors deemed pertinent in accordance with the FLSA. (An individual determination shall be made if the manager, supervisor or incumbent feels the assigned exemption status is incorrect for duties being performed in a particular position.)
 - 2. Individual determination of duties being performed in each position by management personnel at a level close enough to have an understanding of the actual day-to-day duties actually being performed.
- B. Division and Bureau directors/department heads/unit managers and/or equivalent positions shall be responsible for the assignment of the appropriate exemption status for positions under his/her command based on duties actually being performed, making individual determinations when necessary (with assistance provided by Human Resources as needed), and submitting to the Human Resources Office documentation of determinations made.
- C. Records shall be maintained on how each determination was made. Records do not have to be kept for FLSA purposes on employees not covered by the FLSA. Positions not covered include elected officials and their personal staff, policy-making appointees, legal advisors, legislative employees, bonafide volunteers, independent contractors, prisoners, and certain trainees as stated within the FLSA.

VI. RESPONSIBILITIES AND PROCEDURES

- A. Assistant Secretary's Responsibility
 - 1. To notify his/her facility administrators, regional administrators, clinic directors and/or equivalent, Office/facility human resources directors and regional human resources directors by memo how determinations are to be made.
 - 2. If general determinations have been made, his/her memo should include a list of job titles utilized by that Office and their exemption status.
- B. Manager's Responsibility to make FLSA Determinations as Required/Needed
 - 1. FLSA Determination for individual positions
 - a. The manager may meet with the incumbent of the position being evaluated. The incumbent's supervisor should be included in the meeting when possible if he/she is not the manager making the determination. (If the position is vacant, the manager may meet with the supervisor).
 - b. The manager and employee/supervisor, if participating in the determination shall read and review FLSA Cover Sheet and Determination Tests, HR36.
 - c. The manager and employee/supervisor shall then discuss the duties actually being performed or to be performed (if the position is vacant) by the incumbent in relation to HR36.
 - d. A determination shall be made. A joint determination is preferable. However, the ultimate responsibility for making the determination and justifying it rests with the manager.
 - e. The manager and the employee, if participating in the determination, shall sign and date all forms used. If the position is vacant, the manager shall write "Vacant" on all forms in the space for the incumbent's name.
 - 2. Position Description

After the determination has been made, the manager and employee/supervisor, if participating in the determination, shall review the current position description. If there is a significant change in job duties of a continuing nature, an updated position description shall be submitted to the Human Resources Office within thirty (30) days of the date the determination was made.
 - 3. FLSA Determination Cover Sheet

The manager and the employee, if participating in the determination, shall complete and sign the FLSA Determination Cover Sheet, HR36. If the position is vacant, the manager shall write "Vacant" in the space for the incumbent's name.

4. Notification/Records
 - a. The employee shall be given a copy of all documents used, upon request.
 - b. The supervisor and time administrator shall be given a copy of the cover sheet for overtime coding purposes.
 - c. The Human Resources Director shall be given/sent the original documents and a copy of the position description reviewed.
 - d. The manager shall set up a file for each position, and maintain a record of how each determination was made. A copy of all the documents and tools used shall be kept on file for a minimum of three (3) years after completion of the next determination.
- C. Manager's Responsibilities for Positions Included on a Master Job Description (MJD)
1. One set of FLSA determination forms, HR36, may be completed for all positions included on a master job description.
 - a. "Master Job Description" or "MJD" shall be written on all FLSA determination forms in place of the position number.
 - b. A separate sheet of paper must be attached to the FLSA Determination Cover Sheet giving the following information:
 - 1) position numbers that are included in the determination;
 - 2) office/facility/clinic and GFS Org # where each is located; and,
 - 3) current incumbent(s) name and ISIS ID #.
 2. FLSA Determination
 - a. The manager shall read HR36.
 - b. The manager may meet with or contract the supervisor if necessary to make the determination.
 - c. A determination shall be made.
 - d. The manager shall sign and date all forms used.
 3. Position Description

After the FLSA determination has been made, the manager shall review the current position description. If there is a significant change in job duties of a continuing nature, an updated position description shall be submitted to the Human Resources Office within thirty (30) days of the date the determination was made.
 4. FLSA Determination Cover Sheet

The manager shall complete and sign the FLSA Determination Cover Sheet, HR36.
 5. Notification/Records
 - a. Each incumbent shall be given a copy of all documents used upon request.
 - b. Each supervisor and time administrator shall be given a copy of the cover sheet and the list of position numbers that are included in the determination for overtime coding purposes.

- c. The Human Resources Director (custodian of the official LDH personnel file) shall be given/sent the original documents and a copy of the position description reviewed.
- d. The manager shall set up a master file and maintain a record of how the determination was made. A copy of all the documents and tools used shall be kept on file for a minimum of three (3) years after completion of the next determination.

D. Human Resources Director's Responsibility

- 1. When documentation of a determination is received, the Human Resources Director shall pull the official job description on file in the Human Resources Office. According to the information on the FLSA Determination Cover Sheet, the Human Resources Director shall stamp or write the date the determination was made at the top of the agency's copy of the official job description, as well as one of the following:
 - a. "Exempt" or "Non-exempt" – if there was no significant change in the job duties;
 - b. "Needs Updating" – if there has been a significant change between the job description on file and the job duties being performed.
- 2. If the job description needs updating, the Human Resources Director shall make a tickler and follow-up in writing within thirty (30) days to be sure an updated job description is submitted. A copy of the request may be sent to the Assistant Secretary to ensure an updated job description is submitted.
- 3. Input Determination in ISIS
 - a. Access the organizational structure within the organization view.
 - b. Select the position for which you want to maintain an employee group and subgroup.
 - c. Select the info type, Employee Group/Subgroup.
 - d. Assign an employee subgroup.

NOTE: When an employee promotes, demotes, or laterally transfers, his/her exemption status may change.

- 4. Documentation of how each determination was made shall be attached to the official job description.
- 5. The Human Resources Director shall investigate questionable determinations within his/her office/facility/clinics for potential problems.
- 6. The Human Resources Director shall answer questions asked by administrators, division/bureau directors, department heads, and managers regarding FLSA determination. He/she shall:

- a. research the issues, utilizing his/her FLSA manual, updates, departmental policies, related memorandums, etc.; and,
 - b. request the assistance of the LDH, Division of Human Resources, Training and Staff Development after all available avenues have been exhausted.
- E. Responsibilities of the LDH Human Resources Director
 - 1. The LDH Human Resources Director shall monitor determinations made throughout the state.
 - 2. The LDH Human Resources Director shall answer questions asked by Human Resources Directors. He/she shall:
 - a. research the issues, utilizing his/her FLSA manual, updates, departmental policies, related memorandums, etc.; and,
 - b. request the assistance of the Department of Labor after all available avenues have been exhausted.

VII. DISCIPLINARY ACTIONS

Any employee who violates this policy may be subject to disciplinary action up to and including dismissal from employment.

VII. REFERENCES

Fair Labor Standards Act, Part 541

https://www.dol.gov/whd/overtime/fs17g_salary.pdf

State Civil Service Rule 21.2

Human Resources, Training and Staff Development Office

VIII. REVISION HISTORY

Date	Revision
June 17, 1999	Policy created
August 23, 2004	Policy revised
	Policy revised